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SENATE BILL 251

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO COMPULSIVE GAMING; IMPOSING COMPULSIVE GAMBLER FEES; CREATING A SUSPENSE FUND; CREATING THE COMPULSIVE GAMBLING TREATMENT FUND; DISTRIBUTING COMPULSIVE GAMBLER FEES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-24-24 NMSA 1978 (being Laws 1995, Chapter 155, Section 24, as amended) is amended to read:

"6-24-24. DISPOSITION OF REVENUE. --

A. As nearly as practical, an amount equal to at least fifty percent of the gross annual revenues from the sale of lottery tickets shall be returned to the public in the form of lottery prizes.

B. The authority shall transmit all net revenues to

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1 the state treasurer, who shall deposit them in the lottery
2 tuition fund. Estimated net revenues shall be transmitted
3 monthly to the state treasurer for deposit in the fund;
4 provided that the total amount of annual net revenues for the
5 fiscal year shall be transmitted no later than August 1 of each
6 year.

7 C. In determining net revenues, operating expenses
8 of the lottery include all costs incurred in the operation and
9 administration of the lottery and all costs resulting from any
10 contracts entered into for the purchase or lease of goods or
11 services required by the lottery, including the costs of
12 supplies, materials, tickets, independent audit services,
13 independent studies, data transmission, advertising, promotion,
14 incentives, public relations, ~~communications~~, ~~commissions~~ paid
15 to lottery retailers, printing, distribution of tickets,
16 purchases of annuities or investments to be used to pay future
17 installments of winning lottery tickets, debt service and
18 payment of any revenue bonds issued, contingency reserves,
19 transfers to the reserve fund and any other necessary costs
20 incurred in carrying out the provisions of the New Mexico
21 Lottery Act.

22 D. An amount up to [~~two~~] one and three-fourths
23 percent of the gross annual revenues shall be set aside as a
24 reserve fund to cover bonuses and incentive plans for lottery
25 retailers, special promotions for retailers, purchasing special

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1 promotional giveaways, sponsoring special promotional events
2 [~~compulsive gambling rehabilitation~~] and such other purposes as
3 the board deems necessary to maintain the integrity and meet
4 the revenue goals of the lottery. The board shall report
5 annually to the governor and each regular session of the
6 legislature on the use of the money in the reserve fund. Any
7 balance in excess of fifty thousand dollars (\$50,000) at the
8 end of any fiscal year shall be transferred to the lottery
9 tuition fund.

10 E. A fee that may be cited as the "compulsive
11 gambler fee" is imposed on the authority in an amount of one-
12 fourth percent of the gross annual revenues. The compulsive
13 gambler fee shall be submitted to the state treasurer for
14 deposit in the compulsive gambler fee suspense fund. The
15 authority shall estimate and remit the compulsive gambler fee
16 due to the state treasurer no later than the twenty-fifth day
17 of the month following the month on which the estimate is
18 based. The total amount of annual revenue due to the
19 compulsive gambler fee suspense fund shall be transmitted to
20 the state treasurer no later than August 1 each year."

21 Section 2. Section 60-2E-47 NMSA 1978 (being Laws 1997,
22 Chapter 190, Section 49, as amended) is amended to read:

23 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

24 A. An excise tax is imposed on the privilege of
25 engaging in gaming activities in the state. This tax shall be

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1 known as the "gaming tax".

2 B. The gaming tax is an amount equal to ten percent
3 of the gross receipts of manufacturer licensees from the sale,
4 lease or other transfer of gaming devices in or into the state,
5 except receipts of a manufacturer from the sale, lease or other
6 transfer to a licensed distributor for subsequent sale or lease
7 may be excluded from gross receipts; ten percent of the gross
8 receipts of distributor licensees from the sale, lease or other
9 transfer of gaming devices in or into the state; ten percent of
10 the net take of a gaming operator licensee that is a nonprofit
11 organization; and twenty-five percent of the net take of every
12 other gaming operator licensee. For the purposes of this
13 section, "gross receipts" means the total amount of money or
14 the value of other consideration received from selling, leasing
15 or otherwise transferring gaming devices.

16 C. The gaming tax imposed on a licensee is in lieu
17 of all state and local gross receipts taxes on that portion of
18 the licensee's gross receipts attributable to gaming
19 activities.

20 D. The gaming tax is to be paid on or before the
21 fifteenth day of the month following the month in which the
22 taxable event occurs. The gaming tax shall be administered and
23 collected by the taxation and revenue department in cooperation
24 with the board. The provisions of the Tax Administration Act
25 apply to the collection and administration of the tax.

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1 E. In addition to the gaming tax, a gaming operator
2 licensee that is a racetrack shall pay twenty percent of its
3 net take to purses to be distributed in accordance with rules
4 adopted by the state racing commission. An amount not to
5 exceed twenty percent of the interest earned on the balance of
6 any fund consisting of money for purses distributed by
7 racetrack gaming operator licensees pursuant to this subsection
8 may be expended for the costs of administering the
9 distributions. [~~A racetrack gaming operator licensee shall~~
10 ~~spend no less than one fourth of one percent of the net take of~~
11 ~~its gaming machines to fund or support programs for the~~
12 ~~treatment and assistance of compulsive gamblers.~~]

13 F. A fee that may be cited as the "compulsive
14 gambler fee" is imposed on gaming operator licensees in the
15 amount of one-fourth percent of the net take from gaming
16 machines of a gaming operator licensee. The compulsive gambler
17 fee shall be submitted by a gaming operator licensee to the
18 state treasurer for deposit in the compulsive gambler fee
19 suspense fund. Each gaming operator licensee shall estimate
20 and remit the compulsive gambler fee due to the state treasurer
21 no later than the twenty-fifth day of the month following the
22 month on which the estimate is based. The total amount of
23 revenue due to the compulsive gambler fee suspense fund shall
24 be transmitted to the state treasurer no later than August 1
25 each year.

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1 [F-] G. A nonprofit gaming operator licensee shall
2 distribute at least sixty percent of the balance of its net
3 take, after payment of the gaming tax and any income taxes,
4 for charitable or educational purposes. "

5 Section 3. A new section of the Gaming Control Act is
6 enacted to read:

7 "[NEW MATERIAL] COMPULSIVE GAMBLER FEE SUSPENSE FUND--
8 CREATION-- ADMINISTRATION. --

9 A. The "compulsive gambler fee suspense fund" is
10 created in the state treasury. All money received by the state
11 treasurer from compulsive gambler fees shall be credited daily
12 to the fund. The state treasurer shall administer the fund.
13 Earnings from investment of the fund shall not be retained in
14 the compulsive gambler fee suspense fund but be distributed to
15 the general fund.

16 B. The state treasurer may authorize a refund of
17 money overpaid as estimated compulsive gambler fees based on
18 evidence presented no later than August 1 of each year that
19 estimated payments of compulsive gambling fees exceeded the
20 amount of fees due from the requesting entity. As used in this
21 subsection, a "requesting entity" means the New Mexico lottery
22 authority, a gaming operator licensee or an Indian nation,
23 tribe or pueblo that has entered into a tribal-state gaming
24 compact and has submitted compulsive gambler fees to the state
25 treasurer.

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1 C. Beginning in September 2004 and in each
2 subsequent month, the state treasurer on the twenty-fifth day
3 shall distribute one-third of the net receipts of the
4 compulsive gambler fee suspense fund to the compulsive gambling
5 treatment fund."

6 Section 4. A new section of the Gaming Control Act is
7 enacted to read:

8 "[NEW MATERIAL] COMPULSIVE GAMBLING TREATMENT FUND--
9 CREATION-- ADMINISTRATION. --

10 A. The "compulsive gambling treatment fund" is
11 created in the state treasury. The fund shall be administered
12 by the department of health. The fund shall be comprised of
13 money distributed from the compulsive gambler fee suspense
14 fund, grants, gifts or bequests and appropriations from the
15 legislature.

16 B. No more than one hundred twenty-five thousand
17 dollars (\$125,000) or seven percent of the compulsive gambling
18 treatment fund, whichever is less, may be expended by the
19 department of health to administer the fund or to administer
20 compulsive gambling education, prevention or treatment
21 programs.

22 C. The money in the compulsive gambling treatment
23 fund shall be expended by the department of health to provide
24 compulsive gambling education, prevention and treatment
25 services in New Mexico.

